

AMENDED IN SENATE AUGUST 6, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2570**

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**Introduced by Assembly Member Hill**  
(Coauthor: Senator Correa)

February 24, 2012

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An act to add Section 143.5 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2570, as amended, Hill. Licensees: settlement agreements.

Existing law provides that it is a cause for suspension, disbarment, or other discipline for an attorney to agree or seek agreement that the professional misconduct or the terms of a settlement of a claim for professional misconduct are not to be reported to the disciplinary agency, or to agree or seek agreement that the plaintiff shall withdraw a disciplinary complaint or not cooperate with an investigation or prosecution conducted by the disciplinary agency. *Existing law prohibits a physician and surgeon from including specified provisions in an agreement to settle a civil dispute arising from his or her practice. Except as specified, existing law authorizes any interested person to petition a state agency requesting the adoption of a regulation.*

This bill would prohibit a licensee who is regulated by the Department of Consumer Affairs or various boards, bureaus, or programs, or an entity or person acting as an authorized agent of a licensee, from including or permitting to be included a provision in an agreement to settle a civil dispute that prohibits the other party in that dispute from contacting, filing a complaint with, or cooperating with the department, board, bureau, or program, or that requires the other party to withdraw

a complaint from the department, board, bureau, or program, *except as specified*. A licensee in violation of these provisions would be subject to disciplinary action by the board, bureau, or program. The bill would also prohibit a board, bureau, or program from requiring its licensees in a disciplinary action that is based on a complaint or report that has been settled in a civil action to pay additional moneys to the benefit of any plaintiff in the civil action.

*This bill would authorize a board, bureau, or program within the Department of Consumer Affairs to adopt a regulation exempting agreements to settle certain causes of action from these provisions.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 143.5 is added to the Business and  
2     Professions Code, to read:  
3     143.5. (a) No licensee who is regulated by a board, bureau, or  
4     program within the Department of Consumer Affairs, nor an entity  
5     or person acting as an authorized agent of a licensee, shall include  
6     or permit to be included a provision in an agreement to settle a  
7     civil dispute, whether the agreement is made before or after the  
8     commencement of a civil action, that prohibits the other party in  
9     that dispute from contacting, filing a complaint with, or cooperating  
10    with the department, board, bureau, or program *within the*  
11    *Department of Consumer Affairs that regulates the licensee* or that  
12    requires the other party to withdraw a complaint from the  
13    department, board, bureau, or program *within the Department of*  
14    *Consumer Affairs that regulates the licensee*. A provision of that  
15    nature is void as against public policy, and any licensee who  
16    includes or permits to be included a provision of that nature in a  
17    settlement agreement is subject to disciplinary action by the board,  
18    bureau, or program.  
19    (b) Any board, bureau, or program within the Department of  
20    Consumer Affairs that takes disciplinary action against a licensee  
21    or licensees based on a complaint or report that has also been the  
22    subject of a civil action and that has been settled for monetary  
23    damages providing for full and final satisfaction of the parties may  
24    not require its licensee or licensees to pay any additional sums to  
25    the benefit of any plaintiff in the civil action.

1 (c) As used in this section, “board” shall have the same meaning  
2 as defined in Section 22, and “licensee” means a person who has  
3 been granted a license, as that term is defined in Section 23.7.

4 (d) *Notwithstanding any other law, upon granting a petition*  
5 *filed by a licensee or authorized agent of a licensee pursuant to*  
6 *Section 11340.6 of the Government Code, a board, bureau, or*  
7 *program within the Department of Consumer Affairs may, based*  
8 *upon evidence and legal authorities cited in the petition, adopt a*  
9 *regulation that does both of the following:*

10 (1) *Identifies a code section or jury instruction in a civil cause*  
11 *of action that has no relevance to the board’s, bureau’s, or*  
12 *program’s enforcement responsibilities such that an agreement*  
13 *to settle such a cause of action based on that code section or jury*  
14 *instruction otherwise prohibited under subdivision (a) will not*  
15 *impair the board’s, bureau’s, or program’s duty to protect the*  
16 *public.*

17 (2) *Exempts agreements to settle such a cause of action from*  
18 *the requirements of subdivision (a).*

19 (e) *This section shall not apply to a licensee subject to Section*  
20 *2220.7.*

21 SEC. 2. (a) *Nothing in Section 143.5 of the Business and*  
22 *Professions Code shall be construed as limiting the discretion of*  
23 *a board, bureau, or program to decline to grant a petition or adopt*  
24 *a regulation.*

25 (b) *Nothing in Section 143.5 of the Business and Professions*  
26 *Code shall be construed as prohibiting a licensee from including*  
27 *in an agreement to settle a civil dispute any provision that is*  
28 *otherwise not prohibited.*